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REMARKS

Claims 1-24 remain pending in the present Application. Applicants appreciate the indication that Claims 10-24 stand allowed. No new matter has been introduced by these amendments.

Reconsideration and allowance of the claims is respectfully requested in view of the above amendments and the following remarks.

First Claim Rejection Under 35 U.S.C. § 103(a)

Claims 1-6, 8, and 9 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Pat. No. 6,546,602 to Eipper (hereinafter "Eipper"). Applicants respectfully traverse this rejection.

Eipper is generally directed to a releasable closure of separable burr-type elements. The burr elements are characterized as including interlocking elements. One of the burr elements is disclosed as being formed of a woven polyamide sheet structure or plastic plate in which a wire of a nickel titanium alloy is woven into the sheet. The nickel titanium alloy is formed in the shape of loops, which are cut open on one side so as to form hook shaped interlocking elements.

Applicants' independent Claim 1 is directed to a process for disengaging a releasable fastener system. The process comprises preconditioning the releasable fastener system to a preconditioning temperature, wherein the releasable fastener system comprises a hook portion comprising a plurality of hook elements fabricated from a shape memory material and a loop portion engageable with the plurality of hook elements, and wherein the preconditioning temperature is less than the transformation temperature of the shape memory material; applying a primary activation signal to the hook portion to change a shape orientation, a flexural modulus property, or a combination thereof to the plurality of hook elements; and disengaging the hook portion from the loop portion.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, contain some suggestion or incentive that would have motivated the skilled artisan to

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modify a reference or combined references; and that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicants respectfully assert that a prima facie case of obviousness has not been established against independent Claim 1. A prima facie case has not been established because the cited reference fails to teach or suggest, inter alia, preconditioning the releasable fastener system to a preconditioning temperature.

In the Office Action the Examiner comments that "*by reducing the temperature of the hook elements (shape memory alloy) in order to detached its releasable fastener, therefore, by reducing the temperature it obviously be less than the transformation temperature of its shape memory alloy; see column 2, lines 60-67.*" (see Applicants spoeification, paragraph 0048) It is respectfully submitted that, in the case of shape memory alloys, increasing the temperature of the hook elements formed therefrom causes disengagement from the loop portion. Reducing and/or maintaining the temperature below the transformation temperature does not cause disengagement of the releasable fastener system.

As noted by the Applicants in the present specification, "for releasable fasteners systems based on thermal activation signals, such as may be the case with shape memory alloys and shape memory polymers, maintaining the preconditioning temperature below the transformation temperature may comprise providing a secondary activation signal to the releasable fastener system at about a level below that which would normally cause transformation of the shape memory material. In this manner, a primary activation signal can then be provided to effect disengagement, wherein the primary signal would require minimal energy and time to effect disengagement." Accordingly, in the above noted embodiments, increasing the temperature of the hook elements provided by the activation signal causes disengagement.

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As all elements of independent Claim 1 have not been taught, this claim is patentable over Eipper. Given that Claims 2-6, 8, and 9 each further limit and ultimately depend from one of these independent claims, they too are patentable.

Claim Rejection Under 35 U.S.C. § 102(e)

Claims 1-6, 8, and 9 are rejected as being anticipated by U.S. Patent No. 6,766,566 to Cheng et al. ("Cheng"). Applicants respectfully traverse.

Cheng is generally directed to a releasable fastener system comprising a loop portion and a hook portion.

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988).

Cheng fails to disclose, *inter alia*, preconditioning the releasable fastener system to a preconditioning temperature as claimed by Applicants. As discussed above, preconditioning the releasable fastener in this manner minimizes the energy and time to effect disengagement. Nowhere does Cheng discuss preconditioning as a means to improve response time for disengagement, among others.

Accordingly, the rejection applied to Claims 1-6, 8, and 9 are respectfully requested to be withdrawn.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance is requested.

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If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

Respectfully submitted,

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